

GUIDELINES FOR DISCIPLINARY ACTIONS TO BE TAKEN BY THE BOARD OF NURSING

EFFECTIVE: March 7, 1997

PURPOSE: The intent of these guidelines is to apply to persons already licensed. These may, but are not intended, to apply to initial licensure decisions where there has been full disclosure. These guidelines are recommended to further improve the contested case process in two ways: (1) to facilitate faster resolution of cases by encouraging settlements and (2) to provide consistency in sentencing. If two or more violations of any nature are either found or agreed to have occurred, penalties may be administered concurrently or consecutively.

I. Guilty of Crime Cases: T.C.A. 63-7-115(B)

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| If either found by contested hearing or agreed order to have committed a misdemeanor within the last ten years in: | Disciplinary Action Guidelines would be: |
| 1 instance* | Request court document verifying nature of crime and sentence imposed. Renew license. |
| 2 to 3 instances | <p>Drug Related</p> <p>Assessment for chemical dependency, no restrictions, informal settlement with PAP, probation or revocation as indicated.</p> <p>Not Drug Related:</p> <p>a. No harm to the public (e.g., bad check) no discipline.</p> <p>b. Harm to public (e.g., assault, abuse) psychological evaluation, 2 years probation if consistent with recommendation of counselor.</p> |

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| 4 or more instances | <p>Drug Related:</p> <p>Assessment for chemical dependency; plus</p> <p>Informal settlement with PAP (e.g. agrees to treatment and meets informal settlement criteria), or agreed order of probation (e.g. agrees to treatment and meets agreed order criteria), up to revocation (e.g. refuses treatment)</p> <p>Not Drug Related:</p> <p>No harm to public (e.g. bad check) letter of reprimand up to revocation plus Civil Penalty \$250-\$750.</p> <p>Harm to public (e.g. assault, battery); Suspension (6 months) up to Revocation; plus Civil Penalty \$750.</p> |
| If either found by contested hearing or agreed order to have committed a felony in: | Disciplinary Action Guidelines would be: |
| 1 or more instances | Revocation, plus Civil Penalty minimum \$1,000.00. |

*An instance may involve a spree of episodes such as shoplifting, resisting arrest and assault.

II. Incompetence Cases: T.C.A. 63-7-115(C). Rule 1000-1-13 and 1000-2-13:

Incidents of incompetence will be assigned a point value. Each incident of incompetence in which death of a patient occurs will either be assigned 4 or 5 points depending upon the facts of each case. Each incident of incompetence in which **permanent** injury of a patient occurs will either be assigned 3 or 4 points depending upon the facts of each case. Each incident of incompetence in which **serious but not permanent** injury to patient occurs will either be assigned 2 or 3 points depending upon the facts of each case. Each incident of incompetence in which either no injury or minor injury to patient occurs will either be assigned 1 or 2 points depending upon the facts of each case.

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| If either found by contested hearing or agreed order to have engaged in incompetence in which the total accumulated points are: | Disciplinary Action Guidelines would be: |
| 1 point | Warning Letter of Informal Settlement up to 1 year Probation. |
| 2 points | Probation (up to 2 years) up to Suspension (3 months); plus Civil Penalty up to \$500. |
| 3 points | Probation (up to 3 years) up to Suspension (3 months); plus Civil Penalty \$500 to \$1,000. |
| 4 points | Suspension (3 months) up to Revocation; plus Civil Penalty \$1,000 to \$2,000. |
| 5 or more points. | Revocation plus Civil Penalty \$2,000 minimum. |

III. Unprofessional Conduct Cases: T.C.A. 63-7-115(F). Rule 1000-1-13 and Rule 1000-2-13

- A. Incidents of unprofessional conduct except as provided in III B below will be assigned a point value. Each incident of unprofessional conduct where physical abuse (**resulting in physical or psychological injury**) occurs will either be assigned 3 or 4 points depending on the facts of each case. Each incident of unprofessional conduct where physical abuse (**not resulting in physical or psychological injury**) occurs will either be assigned 2 or 3 points depending on the facts of each case. Each incident of unprofessional conduct in which verbal abuse or stealing occurs will be assigned 1 point.

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| If either found by contested hearing or agreed order to have engaged in unprofessional conduct in which the total accumulated points are: | Disciplinary Action Guidelines would be: |
| 1 point | Warning Letter of Informal Settlement up to 1 year Probation. |
| 2 points | Probation (up to 3 years) up to Suspension (3 months); plus Civil Penalty \$250 to \$500. |
| 3 points | Suspension (3 months) up to Revocation; plus Civil Penalty \$500 to \$1,000. |
| 4 to 9 points. | Suspension (6 months) up to Revocation; plus Civil Penalty to \$1,000 to \$2,000. |
| 10 or more points | Revocation plus Civil Penalty \$2,000 to \$3,000. |

Unprofessional Conduct Cases: TCA 63-7-115 F and Rule 1000-1-.13(r) and Rule 1000-2-.13(r), T.C.A. 63-7-134

- B. Incidents of unprofessional conduct involving the practice of nursing on a lapsed state license or beyond the period of a valid temporary permit.

| <u>Infraction</u> | <u>Disciplinary Action Guideline would be:</u> | |
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| Working in Nursing on a lapsed (expired) license (permit) less than six months | <u>RN</u> Shall remit applicable renewal and reinstatement fees | <u>LPN</u> Shall remit applicable renewal and reinstatement fees |
| Working in Nursing on a lapsed (expired) license (permit) six months or longer | <u>RN</u> a. Shall remit applicable renewal and reinstatement fees and b. Shall remit a civil penalty of \$100 per month for each month worked over six months | <u>LPN</u> a. Shall remit applicable renewal and fees and b. Shall remit civil penalty of \$75 per month for month worked over six months |

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IV. Impairment Cases: T.C.A. 63-7-115(C)(D)(F), Rule 1000-1-.13 and Rule 1000-2-.13

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| If either found by contested hearing or agreed order to have been impaired as a: | Disciplinary Action Guidelines would be: |
| First Time Offender | <u>No injury to patient:</u> First offenders are offered an Informal Settlement into PAP regardless of the number of incidents of impairment. <u>Injury to patient:</u> If injury to a patient occurs as a result of impairment, an Agreed Order of Probation for eighteen months (or greater) is offered under standard terms. |
| Repeat Offender | Repeat offenders are offered an Agreed Order of 9-12 months Suspension followed by Probation or Revocation based upon the facts of the case. |

V. Fraud or Deceit in Application Cases: T.C.A. 63-7-115(A)

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| If misrepresentation found: | Disciplinary Action Guidelines would be: |
| If any misrepresentation occurs: A material misrepresentation, (e.g. failure to disclose discipline in another state criminal conviction, falsification or credentials, insurance fraud). | Suspension (3 months) up to Revocation plus Civil Penalty of \$250.00 minimum. Revocation plus Civil Penalty of \$500 minimum. |

VI. Mental Incompetence Cases: T.C.A. 63-7-115(E)

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| If found: | Disciplinary Action Guidelines would be: |
| Mentally incompetent. | License Suspended until Board satisfied that nurse is mentally competent. |

VII. Violation of Board Order Cases: T.C.A. 63-7-115(G)

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| If found in: | Disciplinary Action Guidelines would be: |
| Violation of Board Order. | Automatic Revocation plus Civil Penalty of \$750 minimum. |
| | 6-yes Carried |
| Reinstatement Policy/Procedure | L. Viers moved and seconded by S. Herrin to adopt the revised reinstatement policy/procedure. |

TENNESSEE BOARD OF NURSING

REINSTATEMENT POLICY

Those nurses who have practiced nursing on a lapsed license (permit) for a period of less than six months will be renewed and reinstated administratively. Those nurses practicing nursing on a lapsed license (permit) for a period of six months or longer shall be referred to the Office of General Counsel for disciplinary action.

PROCEDURE FOR RENEWAL AND REINSTATEMENT OF NURSING LICENSURE
IN THE SITUATION OF WORKING ON A LAPSED LICENSE (PERMIT)

| <u>Category</u> | <u>Documentation</u> | <u>Review & Approval</u> |
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| 1) Worked in nursing on a lapsed license (permit) less than six months. | Renewal, reinstatement application reveals employment in nursing without a license for less than six months. | Executive Director/Nursing Consultant |
| 2) Worked in nursing on a lapsed license (permit) six months or longer. | Renewal, reinstatement application reflects employment in nursing without a license six months or longer. | Executive Director/Nursing Consultant A. Do not review/reinstate B. Forward to OGC for disciplinary action. |

Adopted March 7, 1997

Carried

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